

## REMARKS

1. Reconsideration in view of the amendments and comments herein is respectfully requested.

2. Claims 1-48, and 59-73 are presently pending in the application.

3. Claims 4, 5, 13-19, 24-29, 40-42, 60-64, 66, 68, 69, 72, and 73 stand rejected under 35 USC § 112.

Claims 4, 13, 40, and 60 have been amended by substituting "an acylated polypeptide salt" for the phrase containing the trademark names. These amendments traverse this rejection and the claims now appear allowable. Claims 5, 14-19, 41-42, 44-47, 61-64, 66, 68, 72, and 73 are dependent on these claims and now also appear allowable. Claims 24-29 and 69 have been cancelled. Antecedent is found at page 8, lines 8 through 11 where the named trademarks are shown to be acylated polypeptide salts.

4. Claims 20, 24-26 and 43 stand rejected under 35 USC § 112 second paragraph.

Claim 20 has been amended by deleting "composition" and substituting an antecedent claim element "carrier and conduction enhancer" from claim 11. Claim 20 has also been amended to now depend on claim 11.

Claims 24-26 have been cancelled.

Claim 43 has been amended changing dependency from deleted claim 37 to 38, and by changing "skin" to "surface" as in now antecedent claim 37.

Applicant has traversed the above grounds for rejection and the remaining claims now appear allowable.

5. Claims 1, 10, 21, 37, 43, 65, 67, and 71 stand rejected under 35 USC 102(b) as anticipated by Friedman.

Claims 1, 10, 21 and 37 have been cancelled. Claims 43, 65, 67, and 71 have been amended to depend on amended and now allowable claims 38, 2, 11, and 38 respectively, as further discussed below in section 10 below.

Accordingly it appears the remaining claims are allowable.

6. Claims 1, 10, 20, 21, 37, 43, 48, 65, 67, and 71 stand rejected as anticipated under 35 USC 102(b) by Schmolka, Sieverding, Kantner et al, and Picard.

Claims 1, 10, 21, and 37 have been cancelled. Claims 20, 43, 48, 65, 67, and 71 have been amended to depend on amended and now allowable claims 11, 38, 38, 2, 11, and 38 respectively, as further discussed in section 10 below.

Accordingly it appears the remaining claims are allowable.

7. Claims 21-24, 30, and 31 stand rejected as anticipated under 35 USC 102(b) by Mattai et al, as well as by Picard.

Claims 21-24, 30 and 31 have been cancelled.

8. Claims 6-9 stand rejected as obvious under 35 USC 103(a) by Firedman, Schmolka, Sieverding, Kantner, Wang, and Picard.

Claims 6-9 have been amended to now depend on allowable claim 2, see further discussion in section 10 below. As such they further limit allowable subject matter and appear allowable.

9. Claims 32-36, 59, and 70 stand allowed.

10. Claims 2, 3, 11, 12, 38, and 39 stand objected to as being dependent on a rejected base claim but allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Further, claims 4, 5, 13-19, 40-42, 44-47, 60-64, 66, 68, 72, and 73 stand as allowable if rewritten or amended to overcome the 35 USC § 112 2<sup>nd</sup> paragraph rejection(s).

Preliminarily, claims 1, 10, 21-31, 37, 49-58, and 69 are now cancelled.

Claims 4, 5, 13-19, 40-42, 60-64, 66, 68, 72, and 73 that contained the

trademark elements have been amended as described above in section 3 by replacement of the trademarks. Therefore, it appears that this ground for rejection has been traversed.

Claim 2 has been amended to be allowable as suggested by the examiner by adding the limitations of claim 1. Claim 3 now depending on claim 2, further limits claim 2 and should not be required to be in independent form as it now has all the limitations of claim 1. Claim 3 has been amended by correcting the spelling of "acyl peptide". Claims 6, 7, 8, 9, and 65 have been amended to now depend on allowable claim 2 and provide further limitations. Accordingly it appears that claims 2-9, and 65 are allowable.

Claim 11 has been amended to be allowable as suggested by the examiner by adding the limitations of claim 10. Claims 20 and 67 have been amended to now depend on claim 11. All of the claims 12 through 20 and 67 now ultimately depend on allowable claim 11 and provide further limitations. Accordingly, claims 11-20 and 67 appear to be allowable.

Claim 38 has been amended to be allowable as suggested by the examiner by adding the limitations of claim 37. Claims 43, 48, and claim 71 have been amended to depend on claim 38. All of claims 39 through 48 now ultimately depend on allowable claim 38 and provide further limitations. Accordingly, claims 38-48, and 71 appear to be allowable.

11. The informalities noted by the Examiner for pages 15 and 30 have been corrected below. In addition, several other informalities as noted below have been corrected. It is believed that none of these corrections raises new matter as the corrections are either obvious to the user or have antecedent elsewhere in the disclosure as noted.

The disclosure has been amended as follows:

A. The paragraph beginning at page 10, line 9 and ending at page 11, line 9 was amended to correct minor grammatical errors; "a" was added after "consisted of" in line 10, and "membrane" was added after "Nuclepore™". Antecedent for

"membrane" is in the same sentence and at page 10, line 10.

B. The paragraph beginning at page 11, line 10 and ending at line 21 was amended by removing an extraneous period in the first line.

C. The paragraph beginning at page 13, line 19 and ending on line 23 was amended by correcting the spelling of "performed" in the first line.

D. The paragraph beginning at page 15, line 5 and ending at line 14 was amended in the first line by correcting the article "an", "place" was changed to the past tense "placed" in line three, and "was" was changed to "the past tense "were" in the second to last line.

E. The paragraph beginning at page 16, line 4 and ending at line 10 was amended in the third line by correcting "place" to the past tense "placed" and addition of the article "the" before "right side".

F. The paragraph beginning at page 16, line 11 and ending at line 18 was amended in the fifth line by changing "was" to the past tense "were".

G. The paragraph beginning at page 17, line 12, and ending at line 15 was amended by correcting the Sample No. identifier "1-AC" to "29-1 AC" in the first line; by completing the identification of the best result "Test 2 Impedance" in the second line; and correcting "results" to the singular form in the second line. Antecedent is found on page 16, in the first line of Table 7 at the first entry for Sample No.; and on page 17, in the last line of Table 7 respectively.

H. The paragraph beginning at page 18, line 2 and ending at line 12 was amended at line three by correcting to tense of "place" to "placed" and by the addition of "the" before "right side", and in the second-to-last line by correcting the tense of "was" to "were".

I. The paragraph beginning at page 20, line 4 and ending at page 21, line 7 was amended at line three by correcting to tense of "place" to "placed" and by the addition of "the" before "right side", and in the fourth-to-last line by correcting the tense of "was" to "were".

J. The paragraph beginning at page 29, line 20 and ending at page 30, line 2 has been amended by correcting the spelling of "skim" to "skin" in line two (antecedent is found at line 6 of the same paragraph); also the article "a" has been inserted in line three before "carrier".

K. The paragraph beginning at page 30, line 3 and ending at line 5 has been amended by placing the sentence and sentence fragment into proper grammatical form by adding a semicolon after "compounds" in line two and adding the word "and" after the semicolon.

L. The paragraph beginning at page 30, line 28 and ending at page 31, line 4 was amended at line five by correcting "locate" to "located" in line five of the paragraph.

M. The paragraph beginning at page 31, line 5 and ending at line 11 was amended to correct the grammatical construction of the sentence by adding "into" after "mixed" in the third-to-last line. Antecedent is found at page 30, line 5 where in the context of a patch "drug compounds mixed into gel" is used.

-----

Applicant's undersigned attorney has made a good faith effort to meet the concerns expressed by the Examiner. In view of the above amendments and remarks it appears the application meets the conditions for allowance and favorable action thereon is requested. If the Examiner still has some issues with the

application, and has any suggestions as to how to address them, the Examiner is invited to call the Applicant's undersigned attorney at the phone number given below, so that those issues can be worked out.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Klaus H. Wiesmann', written over a horizontal line.

Registration No. 30,437

Phone (614) 424-6589

Fax (614) 424-3864

Email wiesmann@battelle.org

Klaus H. Wiesmann  
BATTELLE MEMORIAL INSTITUTE  
505 King Avenue  
Columbus, Ohio 43201-2693  
January 31, 2006

**Customer No. 24116**